

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6161

Chapter 18, Laws of 2004

58th Legislature
2004 Regular Session

DOMESTIC VIOLENCE BY LAW ENFORCEMENT OFFICERS

EFFECTIVE DATE: 6/10/04

Passed by the Senate February 3, 2004
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 2, 2004
YEAS 94 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 6161 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

Approved March 15, 2004.

FILED

March 15, 2004 - 3:06 p.m.

GARY F. LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6161

Passed Legislature - 2004 Regular Session

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Regala, McCaslin, Franklin, Brandland, B. Sheldon, Esser, Spanel, Winsley, Rasmussen, Kastama, Kohl-Welles, Shin, Haugen, Keiser, Hargrove, Kline, Doumit, Eide, Fraser, Jacobsen, Benton, Oke, Brown, Murray and McAuliffe)

READ FIRST TIME 01/23/04.

1 AN ACT Relating to general authority Washington law enforcement
2 agencies adopting policies addressing domestic violence committed or
3 allegedly committed by general authority Washington peace officers;
4 amending RCW 10.99.020; adding a new section to chapter 10.99 RCW; and
5 creating new sections.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature reaffirms its determination
8 to reduce the incident rate of domestic violence. The legislature
9 finds it is appropriate to help reduce the incident rate of domestic
10 violence by addressing the need for improved coordination and
11 accountability among general authority Washington law enforcement
12 agencies and general authority Washington peace officers when reports
13 of domestic violence are made and the alleged perpetrator is a general
14 authority Washington peace officer. The legislature finds that
15 coordination and accountability will be improved if general authority
16 Washington law enforcement agencies adopt policies that meet statewide
17 minimum requirements for training, reporting, interagency cooperation,
18 investigation, and collaboration with groups serving victims of
19 domestic violence. The legislature intends to provide maximum

1 flexibility to general authority Washington law enforcement agencies,
2 consistent with the purposes of this act, in their efforts to improve
3 coordination and accountability when incidents of domestic violence
4 committed or allegedly committed by general authority Washington peace
5 officers are reported.

6 **Sec. 2.** RCW 10.99.020 and 2000 c 119 s 5 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Agency" means a general authority Washington law enforcement
11 agency as defined in RCW 10.93.020.

12 (2) "Association" means the Washington association of sheriffs and
13 police chiefs.

14 (3) "Family or household members" means spouses, former spouses,
15 persons who have a child in common regardless of whether they have been
16 married or have lived together at any time, adult persons related by
17 blood or marriage, adult persons who are presently residing together or
18 who have resided together in the past, persons sixteen years of age or
19 older who are presently residing together or who have resided together
20 in the past and who have or have had a dating relationship, persons
21 sixteen years of age or older with whom a person sixteen years of age
22 or older has or has had a dating relationship, and persons who have a
23 biological or legal parent-child relationship, including stepparents
24 and stepchildren and grandparents and grandchildren.

25 ~~((+2))~~ (4) "Dating relationship" has the same meaning as in RCW
26 26.50.010.

27 ~~((+3))~~ (5) "Domestic violence" includes but is not limited to any
28 of the following crimes when committed by one family or household
29 member against another:

- 30 (a) Assault in the first degree (RCW 9A.36.011);
- 31 (b) Assault in the second degree (RCW 9A.36.021);
- 32 (c) Assault in the third degree (RCW 9A.36.031);
- 33 (d) Assault in the fourth degree (RCW 9A.36.041);
- 34 (e) Drive-by shooting (RCW 9A.36.045);
- 35 (f) Reckless endangerment (RCW 9A.36.050);
- 36 (g) Coercion (RCW 9A.36.070);
- 37 (h) Burglary in the first degree (RCW 9A.52.020);

- 1 (i) Burglary in the second degree (RCW 9A.52.030);
2 (j) Criminal trespass in the first degree (RCW 9A.52.070);
3 (k) Criminal trespass in the second degree (RCW 9A.52.080);
4 (l) Malicious mischief in the first degree (RCW 9A.48.070);
5 (m) Malicious mischief in the second degree (RCW 9A.48.080);
6 (n) Malicious mischief in the third degree (RCW 9A.48.090);
7 (o) Kidnapping in the first degree (RCW 9A.40.020);
8 (p) Kidnapping in the second degree (RCW 9A.40.030);
9 (q) Unlawful imprisonment (RCW 9A.40.040);
10 (r) Violation of the provisions of a restraining order, no-contact
11 order, or protection order restraining or enjoining the person or
12 restraining the person from going onto the grounds of or entering a
13 residence, workplace, school, or day care, or prohibiting the person
14 from knowingly coming within, or knowingly remaining within, a
15 specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300,
16 26.10.220, 26.26.138, 26.44.063, 26.44.150, 26.50.060, 26.50.070,
17 26.50.130, 26.52.070, or 74.34.145);
18 (s) Rape in the first degree (RCW 9A.44.040);
19 (t) Rape in the second degree (RCW 9A.44.050);
20 (u) Residential burglary (RCW 9A.52.025);
21 (v) Stalking (RCW 9A.46.110); and
22 (w) Interference with the reporting of domestic violence (RCW
23 9A.36.150).
24 ~~((4))~~ (6) "Employee" means any person currently employed with an
25 agency.
26 (7) "Sworn employee" means a general authority Washington peace
27 officer as defined in RCW 10.93.020, any person appointed under RCW
28 35.21.333, and any person appointed or elected to carry out the duties
29 of the sheriff under chapter 36.28 RCW.
30 (8) "Victim" means a family or household member who has been
31 subjected to domestic violence.

32 NEW SECTION. Sec. 3. A new section is added to chapter 10.99 RCW
33 to read as follows:

34 (1) By December 1, 2004, the association shall develop a written
35 model policy on domestic violence committed or allegedly committed by
36 sworn employees of agencies. In developing the policy, the association

1 shall convene a work group consisting of representatives from the
2 following entities and professions:

3 (a) Statewide organizations representing state and local
4 enforcement officers;

5 (b) A statewide organization providing training and education for
6 agencies having the primary responsibility of serving victims of
7 domestic violence with emergency shelter and other services; and

8 (c) Any other organization or profession the association determines
9 to be appropriate.

10 (2) Members of the work group shall serve without compensation.

11 (3) The model policy shall provide due process for employees and,
12 at a minimum, meet the following standards:

13 (a) Provide prehire screening procedures reasonably calculated to
14 disclose whether an applicant for a sworn employee position:

15 (i) Has committed or, based on credible sources, has been accused
16 of committing an act of domestic violence;

17 (ii) Is currently being investigated for an allegation of child
18 abuse or neglect or has previously been investigated for founded
19 allegations of child abuse or neglect; or

20 (iii) Is currently or has previously been subject to any order
21 under RCW 26.44.063, this chapter, chapter 10.14 or 26.50 RCW, or any
22 equivalent order issued by another state or tribal court;

23 (b) Provide for the mandatory, immediate response to acts or
24 allegations of domestic violence committed or allegedly committed by a
25 sworn employee of an agency;

26 (c) Provide to a sworn employee, upon the request of the sworn
27 employee or when the sworn employee has been alleged to have committed
28 an act of domestic violence, information on programs under RCW
29 26.50.150;

30 (d) Provide for the mandatory, immediate reporting by employees
31 when an employee becomes aware of an allegation of domestic violence
32 committed or allegedly committed by a sworn employee of the agency
33 employing the sworn employee;

34 (e) Provide procedures to address reporting by an employee who is
35 the victim of domestic violence committed or allegedly committed by a
36 sworn employee of an agency;

37 (f) Provide for the mandatory, immediate self-reporting by a sworn
38 employee to his or her employing agency when an agency in any

1 jurisdiction has responded to a domestic violence call in which the
2 sworn employee committed or allegedly committed an act of domestic
3 violence;

4 (g) Provide for the mandatory, immediate self-reporting by a sworn
5 employee to his or her employing agency if the employee is currently
6 being investigated for an allegation of child abuse or neglect or has
7 previously been investigated for founded allegations of child abuse or
8 neglect, or is currently or has previously been subject to any order
9 under RCW 26.44.063, this chapter, chapter 10.14 or 26.50 RCW, or any
10 equivalent order issued by another state or tribal court;

11 (h) Provide for the performance of prompt separate and impartial
12 administrative and criminal investigations of acts or allegations of
13 domestic violence committed or allegedly committed by a sworn employee
14 of an agency;

15 (i) Provide for appropriate action to be taken during an
16 administrative or criminal investigation of acts or allegations of
17 domestic violence committed or allegedly committed by a sworn employee
18 of an agency. The policy shall provide procedures to address, in a
19 manner consistent with applicable law and the agency's ability to
20 maintain public safety within its jurisdiction, whether to relieve the
21 sworn employee of agency-issued weapons and other agency-issued
22 property and whether to suspend the sworn employee's power of arrest or
23 other police powers pending resolution of any investigation;

24 (j) Provide for prompt and appropriate discipline or sanctions
25 when, after an agency investigation, it is determined that a sworn
26 employee has committed an act of domestic violence;

27 (k) Provide that, when there has been an allegation of domestic
28 violence committed or allegedly committed by a sworn employee, the
29 agency immediately make available to the alleged victim the following
30 information:

31 (i) The agency's written policy on domestic violence committed or
32 allegedly committed by sworn employees;

33 (ii) Information, including but not limited to contact information,
34 about public and private nonprofit domestic violence advocates and
35 services; and

36 (iii) Information regarding relevant confidentiality policies
37 related to the victim's information;

1 (l) Provide procedures for the timely response, consistent with
2 chapters 42.17 and 10.97 RCW, to an alleged victim's inquiries into the
3 status of the administrative investigation and the procedures the
4 agency will follow in an investigation of domestic violence committed
5 or allegedly committed by a sworn employee;

6 (m) Provide procedures requiring an agency to immediately notify
7 the employing agency of a sworn employee when the notifying agency
8 becomes aware of acts or allegations of domestic violence committed or
9 allegedly committed by the sworn employee within the jurisdiction of
10 the notifying agency; and

11 (n) Provide procedures for agencies to access and share domestic
12 violence training within their jurisdiction and with other
13 jurisdictions.

14 (4) By June 1, 2005, every agency shall adopt and implement a
15 written policy on domestic violence committed or allegedly committed by
16 sworn employees of the agency that meet the minimum standards specified
17 in this section. In lieu of developing its own policy, the agency may
18 adopt the model policy developed by the association under this section.
19 In developing its own policy, or before adopting the model policy, the
20 agency shall consult public and private nonprofit domestic violence
21 advocates and any other organizations and professions the agency finds
22 appropriate.

23 (5)(a) Except as provided in this section, not later than June 30,
24 2006, every sworn employee of an agency shall be trained by the agency
25 on the agency's policy required under this section.

26 (b) Sworn employees hired by an agency on or after March 1, 2006,
27 shall, within six months of beginning employment, be trained by the
28 agency on the agency's policy required under this section.

29 (6)(a) By June 1, 2005, every agency shall provide a copy of its
30 policy developed under this section to the association and shall
31 provide a statement notifying the association of whether the agency has
32 complied with the training required under this section. The copy and
33 statement shall be provided in electronic format unless the agency is
34 unable to do so. The agency shall provide the association with any
35 revisions to the policy upon adoption.

36 (b) The association shall maintain a copy of each agency's policy
37 and shall provide to the governor and legislature not later than

1 January 1, 2006, a list of those agencies that have not developed and
2 submitted policies and those agencies that have not stated their
3 compliance with the training required under this section.

4 (c) The association shall, upon request and within its resources,
5 provide technical assistance to agencies in developing their policies.

6 NEW SECTION. **Sec. 4.** The code reviser shall correct any cross-
7 references to RCW 10.99.020 that are changed by this act.

Passed by the Senate February 3, 2004.

Passed by the House March 2, 2004.

Approved by the Governor March 15, 2004.

Filed in Office of Secretary of State March 15, 2004.